

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EDDY A. FELIZ,	:	CIVIL ACTION
Plaintiff	:	
v.	:	
THE KINTOCK GROUP, et al.	:	No. 02-3541
Defendants	:	

ORDER

AND NOW, this day of , 2007, upon
consideration of the motion of plaintiff to alter or amend judgment and the
response in opposition of Commonwealth defendants, it is hereby ordered and
decreed that plaintiff's motion is DENIED.

BY THE COURT:

PETRESE B. TUCKER, J.

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RESPONSE BY DEFENDANTS PAUL, YANIS, BELLO AND CAISON IN
OPPOSITION TO PLAINTIFF'S MOTION TO ALTER OR AMEND THE
JUDGMENT

Defendants Kenneth Paul from the Pennsylvania Board of Probation and Parole (PBPP) and Glenn Yanis, Ernest Bello, and Lafayette Caison from the Pennsylvania Department of Corrections (DOC)—the only additional defendants who were served, oppose plaintiff's motion to alter or amend the judgment as to all themselves and all the additional DOC defendants who were not served, and incorporate the attached memorandum of law.

WHEREFORE, this Court should deny plaintiff's motion.

Respectfully submitted,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

By: /s/Sue Ann Unger
Sue Ann Unger
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MEMORANDUM OF LAW IN SUPPORT OF RESPONSE BY DEFENDANTS
PAUL, YANIS, BELLO AND CAISON IN OPPOSITION TO PLAINTIFF'S
MOTION TO ALTER OR AMEND JUDGMENT

Responding Commonwealth defendants Agent Paul from the Pennsylvania Board of Probation and Parole and officials Yanis, Bello, and Caison from the Pennsylvania Department of Corrections oppose plaintiff's motion to alter or amend judgment, as to all themselves and all the additional DOC defendants who were not served. The copy of the motion respondents received is dated March 29, 2007, and was postmarked April 5, 2007. This response incorporates by reference all the reasons set forth in respondents' motion to dismiss and this Court's order of March 14, 2007.

"The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence." *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985) (citations omitted), cert. denied, 476 U.S. 1171 (1986). To obtain relief plaintiff must establish one of three factors: (1) the development of an intervening change in the law, (2) the emergence of new evidence not previously available, or (3) the need to correct a clear error of law or prevent a manifest injustice. *Max's Seafood Cafe v. Quinteros*, 176 F.3d 669, 677 (3d Cir.1999).

The granting of a motion to reconsider is an extraordinary remedy and a court should not do so when the motion is merely a re-styling or rehash of issues previously presented. *McConocha v. Blue Cross and Blue Shield Mutual of Ohio*, 930 F.Supp. 1182, 1184 (N.D.Ohio 1996), cited in *Tiwari v. Board of Governors of PaSSHE*, No. 4:06-CV-01082, 2007 WL 675306 (M.D.Pa., Mar. 01, 2007); *EFMC Intern., Inc. v. Leep, Inc.* No. 4:05-CV-1289, 2007 WL 247900, *1 (M.D.Pa. Jan. 26, 2007). A “court should consider neither new evidence nor a new legal theory which could have been presented on the original motion, taking into account due diligence.” *McConocha*; *EFMC* at 1. “Mere disagreement with the court is a ground for an appeal, not a motion for reconsideration.” *Id.*

Plaintiff does not meet the above high standard.

For all the above reasons, this Court should deny plaintiff's motion.

Respectfully submitted,

THOMAS W. CORBETT, JR.
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CORRECTED CERTIFICATE OF SERVICE

I, Sue Ann Unger, hereby certify that the Response in Opposition to Plaintiff's Motion to Alter or Amend Judgment has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a true and correct copy of the said document was mailed on April 10, 2007, by first class mail, postage prepaid to:

Eddy A. Feliz, CK 0068
SCI-Dallas
1000 Follies Road
Dallas, PA 18612-0286

Respectfully submitted,

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